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C O N F I D E N T I A L SECTION 01 OF 04 KUWAIT 004322

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STATE FOR NEA/ARPI AND S/CT, LONDON FOR TSOU, PARIS FOR ZEYA

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TAGS: [PTER](#) [PREL](#) [PGOV](#) [JO](#) [IZ](#) [SA](#) [KU](#) [TERRORISM](#)

SUBJECT: UPDATE ON PENINSULA LIONS: PROSECUTION CALLS FOR DEATH WHILE DEFENDANTS ALLEGE TORTURE

REF: A. KUWAIT 1308

[B](#). KUWAIT 0804

Classified By: Ambassador Richard LeBaron for reasons 1.4 (b) and (c)

[1](#)1. (C) Summary: The Peninsula Lions terrorist cell case completed its procedural phase and began actual deliberations on the charges facing the thirty-seven defendants on Saturday, September 24. The accused are all implicated in the January 10, 15, 30, and 31 police actions that left four Kuwaiti police officers dead. Charges against them include collaboration to commit terrorism, planning attacks on state officials for the purpose of creating chaos, planning attacks on U.S. forces within Kuwait, and funding terrorist groups through charitable donations. The case is being closely watched by the public as accusations of torture and coercion have made it into the press after each procedural hearing. A court-ordered medical examination of defendants who claimed torture, verified their abuse but failed to mention where, when, or by whom. Eleven defendants are still at large, nine are out on bail, and seventeen are being held at the Central Prison. The case is being tried by all Kuwaiti judges, a rarity in a country where over half the judges are foreign. Extra security measures are evident, with hooded Kuwaiti Special Forces present in the courtroom, and uncovered Kuwaiti Special Forces in place on the street. Neighboring courtrooms have been emptied during the hearings so that the Peninsula Lions case can be tried in relative seclusion on the fourth floor of the court building. There have been family members, overwhelmingly male, present for the hearings, while the Australian Consular officer, with his assistant, has also attended due to the presence of an Australian national defendant. Some confusion exists as the press reported that the Public Prosecutor's Office called for the death penalty for all 37 while PolOff and Pol Assistant heard them call for the "maximum penalty" for the individual charges during the hearing itself. If accurate, that would mean 20 could face death by hanging while others could be looking at long prison sentences. End summary.

Who's on Trial for What

[1](#)2. (SBU) The defendants list (see para 7) reads like a cross-section of Kuwaiti government occupations, with the Ministries of Public Works, Awqaf and Religious Affairs, Interior, Social and Labor Affairs, and Defense all having employees charged. (Note: The Government employs over 85% of Kuwaitis who have jobs. End note.) The docket of charges includes "murder of Kuwait security forces, planning the assassination of Kuwait State Security (KSS) and Ministry of the Interior (MOI) officials for the purpose of creating chaos, planning the murder of military personnel of friendly forces in Kuwait, collaborating to commit terrorism, exhorting others to join illegal organizations, calling for a fight against state authorities, and carrying out hostile actions against state's interests." There are also additional charges of issuing fatwas to help facilitate the above, giving financial assistance to illegal organizations in the form of donations, possessing unlicensed firearms and ammunition, and manufacturing explosives.

Prosecution Seeks Death Penalty

[1](#)3. (SBU) Four policemen were killed in the clashes during January 2005. During the opening of deliberations on September 24, the Public Prosecutor's Office called for the "maximum penalty" for all defendants. This would include the death penalty for 20 of the 37 suspects, for allegedly being members of the Peninsula Lions, a group linked to Al-Qaeda. The remaining 17 would face penalties ranging from five years to life in prison, if sentenced to the maximum on each charge. (Note: the GOK has executed only one Kuwaiti in the past five years. Nearly all Kuwaitis previously facing the death penalty were able to reach an agreement on payment of blood money in lieu of capital punishment, but it is not yet clear whether the GOK will allow a blood money payment in this case. Blood money must be agreed upon by the family of the victim as well as the relevant judicial authorities. End note.)

GOK Investigates Torture Claims

14. (SBU) Twelve of the 17 imprisoned defendants claimed that they were tortured and threatened with violence against their families if they did not cooperate. A court ordered medical examination revealed that the defendants did have scars, but the examination could not conclude where or when the beatings were inflicted or by whom. Lawyers for those claiming tortured have asked for a dismissal of all charges due to their clients' now "unfit" mental conditions. One lawyer stated that his client was now psychologically so damaged, he should not be tried for any crime. The allegations of torture and the release of the medical report have made for tabloid-type reading in the press, but there has been no outcry from human rights groups.

The Scene in the Courtroom

15. (SBU) The courtroom is empty as the imprisoned defendants are brought in, blindfolded and shackled, one by one. Two Kuwaiti Special Forces (SF) soldiers flank each defendant as they are moved from the holding area, outside the courtroom, into the defendants' box. The thick blindfolds, four inches wide, are removed and the shackles are unlocked, before they are directed to the farthest seat available. As the defendants' box fills up, more SF soldiers secure the courtroom. The SF soldiers are hooded and have no names on their uniforms. After the imprisoned defendants are all seated, the defendants out on bail are called into the courtroom. They are seated in the general gallery area, in no specific order. Next, the lawyers and their assistants are called in. They sit in the front two rows of the gallery and against the walls. The gallery holds 65 seats and defendants' family members and a handful of journalists fill up the rest. PolOff and other official observers are seated behind the lawyers in the third row, adjacent to the defendants' box. The defendants' box has a specially built metal cage inside it. The cage seats only fifteen so 2 defendants stand for the hearings. The cage's one door is locked during proceedings and the gallery seats are four feet from it. Facing the gallery is the "bench", resembling a long podium, which seats three judges as well as three court clerks. Lawyers are called up one at a time and present their arguments to the judges sitting less than five feet away from them. At times the dialogue can be so soft that spectators cannot hear the defense's arguments. SF soldiers flank the defendants' box and line the back wall of the courtroom. Family members can speak to the defendants from their seats but cannot approach the cage or touch the defendants in any way. There are twelve regular SF soldiers and 3 "Al-Maghaweer" or guerilla-trained SF soldiers present in the courtroom during hearings. (Note: The Al-Maghaweer are considered the "Delta Force" of the Special Forces in Kuwait. Less than 25% of SF soldiers who attempt the Al-Maghaweer training are able to complete it. End note.) SF soldiers are also present directly outside the courtroom and in front of the courthouse itself. Prisoners are transported to and from the courthouse in a convoy of armored buses with barred windows and heavily armored vehicles.

The Prosecution and Defense Begin Their Moves

16. (C) The Public Prosecutor's Office opened deliberations on September 24 by recounting the events of January 2004 in a detailed monologue lasting the better part of an hour. Focusing on only a handful of defendants by name, the prosecutor lauded the dead officers and then quoted the Koran extensively on why it was "haram" or forbidden in Islam to kill another Muslim. Before the hearing began, the defendants' lawyers (approximately ten) struck a deal to jointly request an immediate adjournment before beginning their defense. Initially, not all of the defense attorneys were willing to do so, but the higher profile attorneys convinced them of the tactic before the courtroom doors opened. PolOff and Pol Assistant noted that the most charismatic lawyer, Mubarak Saadoun Al-Mutawa, defense attorney for four defendants, including numbers 17 and 34 of the para 7 list, handled most negotiations for the deal. (Note: Al-Mutawa is well known to the Embassy and has handled a number of high-profile cases in the past. End note.) The Court accepted the request and the case was adjourned until November 12 after the prosecutor's statement.

The List of the 37

17. (SBU) The following is the list of the thirty-seven defendants with their ages and occupations as compiled by numerous press sources. The defendants are normally identified by their lawyers and the court clerks by number only (i.e. Hamed Nawaf Al-Harbi is called "Number 15" in court). Also included is whether or not they are fugitives, in prison, or out on bail, to the best of Post's knowledge. Post continues to verify the names at each hearing, since a

complete roster of full names has never been published. All names, with estimated dates of birth, will be submitted to the Department under the Visas Viper program.

1. Mohammed Sa'ad Bin Oun (Kuwaiti, 21, Ministry of Social and Labor Affairs, in prison)
2. Ahmed Masameh Mohsen Majed Al Mutairi (Kuwaiti, 21, student, in prison)
3. Abdullah Saeed Habib Al Shimmari aka Abdullah Bu Arwa (Kuwaiti, 22, unemployed, in prison)
4. Ahmed Mutlaq Nasser Al Mutairi (Kuwaiti, 30, technician at Kuwait Oil Company, in prison)
5. Mohammed Mahmoud Al Shimmari (non-Kuwaiti, 35, fugitive)
6. Suleiman Hamed Suleiman Al-Shimmari (Saudi, 41, fugitive)
7. Ahmed Melis Abdulaziz Al-Enezi (non-Kuwaiti, 20, student)
8. Mohammed Essa Nawaf Al-Shimmari (bidoon/stateless, 21, secretary, in prison)

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9. Salah Abdullah Rabea Khalaf aka Salah Rabea Al Shimmari (non-Kuwaiti, 24, student, in prison)
10. Mohammed Salem Al Ajmi (Kuwaiti, 32, formerly in Coast Guard, in prison)
11. Mohsen Fadl Ayad Al-Fadhel/Al-Fadhli (Kuwaiti, 24, fugitive)
12. Majed Mayyah Al-Mutairi (Kuwaiti, 33, Ministry of Public Works, in prison)
13. Maqbul Fahd Fahhad Al-Maqbul (Kuwaiti, 34, Ministry of the Interior retired, in prison)
14. Khaled Abdullah Al-Dosairi (Kuwaiti, 31, fugitive)
15. Hamed Nawaf Al-Harbi (Kuwaiti, 22, fugitive)
16. Mohammed Jamaal Al-Mutairi (Kuwaiti, 22, Ministry of Awqaf, in prison)
17. Hussam Yousef Abdul-Rahim (Jordanian, 19, Salmiya cooperative employee, in prison)
18. Abdulla Ali Al Rabei (Kuwaiti, 19, student, in prison)
19. Mohammed Abdullah Al-Otaibi (Kuwaiti, 21, Ministry of Social Affairs & Labor employee, in prison)
20. Ahmed A. Al-Otaibi (Kuwaiti, fugitive)
21. Abdul Latif Abdul Qader Al Juwaisri (Kuwait, 21, fugitive)
22. Mohammed Sheikh Essa (Somali, 27, fugitive)
23. Fahed S. Al-Enezi (Kuwaiti, 37, businessman)
24. Nassir Ali Al-Otaibi (Kuwaiti, 28, Ministry of Education, out on bail)
25. M.S. Al-Otaibi (Kuwaiti, 19, student, in prison)
26. Osama Ahmed Hussein Al-Monawer (Kuwaiti, 32, lawyer, out on bail)
27. Bassem A. Al-Shimmari (possible bidoon/stateless, 24, in prison)
28. Ali Habib Al-Shimmari (non-Kuwaiti, fugitive)
29. Nouri Moudalal Quwair (non-Kuwaiti, 30, former fugitive, now on bail)
30. Faisal Amir Abu Qazila (Kuwaiti, 21, Ministry of Defense 1st Lt., held in prison)
31. Nuha Mohammed Al-Enezi (Kuwaiti, 26, wife of Cell leader Amer Khlaif Al Enezi (deceased), being treated abroad for cancer at unknown location)
32. Talal Adri (Australian, 28, businessman, former bidoon/stateless, in prison)
33. Faisal F. Al-Dossari (Kuwaiti, 32, fugitive)
34. Hamed Abdullah Hamed Al-Ali (Kuwaiti, 44, Imam, teacher, out on bail)

135. Yassir Josef Mustapha (Jordanian, 23, sales representative, out on bail)

136. Mohammed S. Al-Rashidi (Kuwaiti, 34, Muezzin/Caller to Prayers)

137. Ahmed Mohammed Al-Mutairi (Kuwaiti, 27, Ministry of Defense 'retired')

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